

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

AVAYA INC.,

Plaintiff/Counterdefendant,

v.

TELECOM LABS, INC.,
TEAMTLI.COM, CONTINUANT INC.,
DOUGLAS GRAHAM, SCOTT GRAHAM,
and BRUCE SHELBY,

Defendants/Counterclaimants.

HONORABLE JOSEPH E. IRENAS

CIVIL ACTION NO. 06-2490
(JEI/KMW)

ORDER

APPEARANCES:

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IRENAS, Senior District Judge:

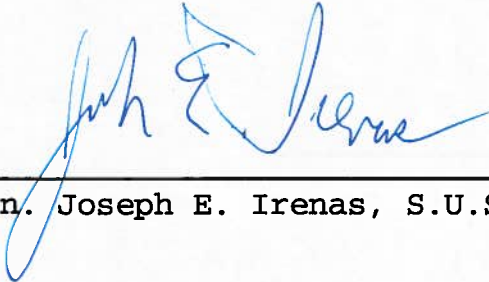
This matter, currently being tried by the parties before a jury, comes before the Court on Defendants/Counterclaimants' (collectively, "TLI/C") motions for judgment as a matter of law seeking (i) a finding that Plaintiff/Counterdefendant Avaya Inc. ("Avaya") failed to prove that its customers' software licensing agreements prohibit them from allowing TLI/C access to and use of on demand maintenance commands ("ODMCs") on their Avaya PBX systems, (Dkt. No. 1101); and (ii) dismissal of each of Avaya's claims, (Dkt. Nos. 1099, 1100, 1103, 1104, 1105, 1106). The Court having considered the submissions of the parties; oral argument having been heard November 18, 2013; and for the reasons set forth in an Opinion issued on even date herewith; and for good cause appearing;

IT IS on this 7th day of January, 2014,

ORDERED THAT:

- (1) Defendants/Counterclaimants' motions, (Dkt. Nos. 1099, 1100, 1101, 1103, 1104, 1105, 1106) are **GRANTED**.
- (2) The Court finds as a matter of law that Avaya has failed to prove that its customer contracts prohibit PBX owners from allowing TLI/C access to and use of ODMCs on Avaya PBX systems.

- (3) The following claims are **DISMISSED WITH PREJUDICE**: (i) tortious interference with prospective economic advantage; (ii) fraud/misrepresentation; (iii) breach of contract; (iv) unfair competition; (v) unjust enrichment; (vi) aiding and abetting; and (vii) civil conspiracy.



Hon. Joseph E. Irenas, S.U.S.D.J.